

May 4, 1999

Steven M. Rawlings, President
ROXY BEVERAGE CO., INC.
712 Fourth Street
Altoona, PA 16602

RE: Refrigerated Draft Cart

Dear Mr. Rawlings:

ISSUE: This is in response to your April 23, 1999 inquiry to this office regarding whether your client, an importing distributor licensee (I.D. License No. 111), would be permitted to lend or rent a refrigerated, trailer-style draft beer dispensing unit to other licensees of the Board, namely clubs and taverns, for special events they may conduct on or off their licensed premises.

OPINION: Sections 411(e), 443(d), 443(f) and 493(17) of the Liquor Code prohibit an importing distributor from either directly or indirectly giving anything of value or the equivalent thereof to any restaurant licensee or its servant, agent or employe, for equipping, fitting out or maintaining and conducting the restaurant. [47 P.S. Sections 4-411(e), 4-443(d), 4-443(f) and 4-493(17)]. A refrigerated, trailer-style draft beer dispensing unit such as the one you described in your letter is considered equipment. Thus, your client can neither lend nor rent this unit to other licensees of the Board, as even a loan would still be a gift or something of value for that establishment. For your information, items such as draft beer equipment or tapping devices generally must be obtained by licensees from commercial sources and not Board-licensed wholesalers or manufacturers.

Additionally, retail licensees are not permitted to sell alcohol outside their licensed premises, even if on the same property as the licensed premises, unless they qualify for, and hold, a special occasion permit pursuant to Liquor Code section 408.4. [47 P.S. Section 4-408.4]. Further, the Board's Advisory Notice No. 9 (Third Revision) specifically prohibits distributors and importing distributors from selling or renting tapping devices (including refrigerated trucks and trailers).

I have enclosed copies of Liquor Code sections 411(e), 443(d), 443(f), 493(17), 4-408.4 and Advisory Notice No. 9, (Third Revision) for your review.

Please do not hesitate to contact this office if you have any questions.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

Enclosure

cc: Pennsylvania State Police-
Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454
FAX: (717) 787-8820

LCB Advisory Opinion No. 99-149